

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

AND NOW, this 6th day of December, 2005;

It is hereby **ORDERED** that Defendant's Motion for Summary Judgment be denied and that summary judgment be entered for Plaintiff as to that portion of its action which seeks a declaratory judgment requiring Colony to defend Kraus in the Cross litigation.

The Report and Recommendation of Magistrate Judge Lenihan is adopted as the Opinion of the Court.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

Dated: December 6, 2005

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